

Steven T. Wax, OSB No. 85012
Federal Public Defender
101 SW Main Street, Suite 1700
Portland, OR 97204
Tel: (503) 326-2123
Fax: (503) 326-5524
Email: steve_wax@fd.org

Lawrence Matasar, OSB No. 74209
621 SW Morrison Street, Suite #1025
Portland, OR 97205
Tel: (503) 222-9830
Email: larry@pdxlaw.com

Attorneys for Defendant

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON
EUGENE DIVISION

UNITED STATES OF AMERICA,
Plaintiff,
v.
PIROUZ SEDAGHATY,
Defendant.

CR 05-60008 HO
POST-DAUBERT HEARING
MEMORANDUM

Defendant Pirouz Sedaghaty, through his attorneys, Steven T. Wax and Lawrence Matasar, hereby submits this memorandum following the Daubert hearing into the

testimony of proposed government expert witness Evan Kohlmann. This memorandum is intended to highlight for the Court the portions of Mr. Kohlmann's report that Mr. Sedaghaty believes are most irrelevant and prejudicial and should be excluded under *Daubert* and FRE 401-403 and 703.

At the outset, we note that it appears the government is proffering Mr. Kohlmann to testify about:

1. the history of the Chechen/Russian conflict;
2. the role of Islamic charities in funding mujahideen fighters in the mid to late 1990's and early 2000's;
3. activities of Al Haramain;
4. sources of and comments on some of the emails found on the Al Haramain computers;
5. comments on some of the fatwas and other material found on the Al Haramain website; and
6. the producer of and comment on two of the videos found at the Ashland residence.

Much of the information discussed at the Daubert hearing and much of the information contained in Mr. Kohlmann's report is simply irrelevant to the issues in this case. This case does not involve any details of the Chechen/Russian conflict, the players in that conflict, the various funders, or alleged funders, of the conflict, and the nature and content and quality of propaganda about the conflict. In terms of the indictment, all that is relevant is the fact that a conflict existed, mujahideen participated, and that it is alleged that Al Haramain provided some funding.

More particularly focusing in on Mr. Kohlmann's report and proposed testimony, he goes far afield, injecting numerous completely irrelevant and highly prejudicial comments.

These comments unnecessarily glorify violence, inject household names of known terrorists who have no relationship to the case, and inject organizations and acts that have no relation to the case and are geographically or temporally distant. Some of the comments were identified in Mr. Sedaghaty's *Daubert* motion. A more complete list of such comments that he should be precluded from mentioning follows.

pg. 5-7	Detail and glorification of Ibn-ul-Khattab's life
pg. 6	The story of Abu Bakar Aqeedah
pg. 6	The reference to Sheikh Omar Abdur-Rahman
pg. 7	The reference to Zacarias Moussaoui
pg. 8	The discussion of Jaffo, his life and training
pg. 8	The detail of the participants of the Kavkav Institute, including Abu Umar, and the jihadi magazine, Nida Ul-Islam
pg. 9	Discussion of Abu Umar and the effort to set up a fundamentalist Islamic state
pg. 9-10	Discussion of the establishment of Sharia Courts
pg. 10	Statements attributed to Abu Umar regarding funding
pg. 10	The video recording of Abu Umar in August 2002
pg. 11	references to Global Relief Foundation and particularly the reference to that organization as "allegedly" doing something
pg. 12	The discussion of Benevolence International Foundation and its funding of warriors
pg. 12	Reference to Al Qaida Lt. Saif Ul-Islam Al-Masri
pg. 12	Reference to "Notorious Afghan mujahideen Commander Gulbuddin Hekmatyar"
pg. 12	Discussion of BIF activities in 1995

- pg. 13 Discussion of the activities of the Qatar Charitable Society, and more particularly its acting under “disguise of charity” and liquidation of charity bank accounts
- pg. 14 The discussion of “the notorious Shamil Basayev” and his activities and killings of Russians throughout the 1990's and his statements about receiving aid from Saudi Arabia
- pg. 14-15 Discussion of Khattab and the council of 17 scholars
- pg. 15 The video “Russian Hell in the Year 2000.”
- pg. 15 Russian allegations against Khattab for bombings and Khattab's comments
- pg. 16 Khattab's death by poisoning in 2002
- pg. 16 The actions of suicide units engaging in actual terrorist acts in 2002 and 2004
- pg. 16-17 Quoting a news story comment from Aqeel al Aqeel
- pg. 17 The discussion of the committee for the defense of legitimate rights and its alleged alignment with Osama Bin Laden
- pg. 17 Discussion of an Italian counter-terrorism raid in 1995 in Milan and connections with Albania
- pg. 17 Discussion of Al Haramain in Bosnia
- pg. 17 Discussion of Italian raid on a Milan guest house involving an Egyptian Sheikh Anwar Shaaban
- pg. 17-18 Discussion of fighters in a variety of countries
- pg. 18 Activities of the Bosnian Muslim Military Intelligence in 1995
- pg. 18 Designation of Al Haramain in 2002 and/or the freezing of its assets in Bosnia
- pg. 18 Embassy bombings in 1998
- pg. 18 Discussion of Osama Bin Laden, Wadihl el Hage and the finding of a business card of Mansour A. Al-Kadi

pg. 19	Reference to Russian FSB material
pg. 19	Reference to a Washington Post story
pg. 19	Three references to material on the Al Haramain Saudi Arabia website.
pg. 20-21	Additional references to FSB documents.
pg. 21	references to FSB documents and reference to FSB documents comparing or discussing activities of Benevolence International Foundation and Global Relief Foundation and Qatar Charitable Society
pg. 22	Discussion of the difference between control of media, such as newspapers and television, as contrasted with the internet.
pg. 22	Interviews in July 2000 with Shamil Basayev
pg. 22	Reference to Basayev and a website that "appears" to be something
pg. 23	Discussion of FBI agent searches of Benevolence International Foundation and fruits of that search
pg. 23	Comments about Azzam Publications and its providing logistical support to mujihadeen
pg. 23	References to Qatab and Azzam
pg. 23	Calling Azzam as having "reigned as the undisputed top mujihadeen propaganda site"
pg. 24	Security operations in England by the SO-13 anti-terrorist branch
pg. 24	Quotes from Azzam from people who were killed and difficulty in getting news out
pg. 25	Further references to Jaffo and Moussaoui
pg. 25	Unique aspect of Azzam in discussing suicide bombings and quotes about that
pg. 25-26	Discussion of quoqaz.net, discussion of operations and killing of Russians

- pg. 26 Discussion of fan mail to quoqaz and the quotes
- pg. 27 Comments from “brother AM” and his thoughts
- pg. 28 Discussion of the American Islamic group
- pg. 28 Discussion of the death of Mohammad Zaki in 1995
- pg. 28 Discussion of Kifah Jayyouzi and comments in made in 1994 about “bloodsuckers” and Hosni Mubarak
- pg. 28 Discussion of AIG Islam report as “arguably” one of the most radical English language jihadist propaganda publications
- pg. 28 April May 1994 AIG Report endorsing mujihadeen camps in Kabal
- pg. 29 Further statements from Jayyouzi
- pg. 29 FBI information regarding visits by Jayyouzi to Boston in 1996-1998
- pg. 29 Letter from Samir Al-Monla to Jayyouzi
- pg. 29 Two videos regarding the Russian/Chechen war from 1994-1996

With respect to the videos, it would be important for the Court to view them prior to permitting the government to admit them at trial for reasons beyond the time issue and irrelevance. One of the videos appears to be a compilation of news reports from a Turkish television station, one as we view it makes reference to AIG; the other does not. Both are of very, very poor quality, difficult to follow, highly confusing, of unknown origin, and unknown ownership.

Respectfully submitted this 12th day of May, 2010.

/s/ Steven T. Wax
Steven T. Wax
Federal Public Defender

/s/ Lawrence Matasar
Lawrence Matasar